

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	CC Docket No. 99-200
Administration of the North American)	
Numbering Plan)	
)	
RNK, Inc. d/b/a RNK Telecom, Inc.)	
Nuvio Corporation, Unipoint)	
Enhanced Services d/b/a PointOne,)	
VoEx, Inc., Vonage Holdings Corp.,)	
DialPad Communications, Inc.)	
Petition for Limited Waiver of Section)	
52.15(g)(2)(i) of the Commission's)	
Rules Regarding Access to)	
Numbering Resources.)	

COMMENTS OF THE NEBRASKA PUBLIC SERVICE COMMISSION

I. Introduction

The Nebraska Public Service Commission (NPSC) respectfully files comments in response to the Petitions filed by RNK, Inc. d/b/a RNK Telecom (RNK), Nuvio Corporation (Nuvio), Unipoint Enhanced Services d/b/a PointOne (PointOne), Dialpad Communications, Inc. (Dialpad), Vonage Holdings Corporation (Vonage) and VoEX, Inc. (VoEX)(collectively referred to herein as 'Petitioners') for limited waivers of section 52.15(g)(2)(i) of the Commission's Rules.¹ In accordance with the Public Notice issued by the Wireline Competition Bureau, initial comments are due April 11, 2005, and Reply Comments are due April 26, 2005.² The NPSC appreciates the opportunity to respond to the Petitions for Waiver.

¹ 47 C.F.R. § 52.15(g)(2)(i).

² Public Notice issued March 11, 2005, CC Docket No. 99-200, DA 05-663.

Section 52.15(g)(2)(i) requires each applicant seeking numbering resources from the North American Numbering Plan to submit evidence that it is authorized to provide service in the area for which the numbering resources are being requested. Essentially, this provision requires applicants to demonstrate that they have been certificated or licensed in the given area. Recently, the Commission was asked to give SBC Internet Services Inc. (SBCIS) a waiver of section 52.15(g)(2)(i) which it did on January 25, 2005.³ Now Petitioners also seek a waiver of section 52.15(g)(2)(i) based on the Commission's decision to grant SBCIS a waiver. The waiver requests are limited in duration, until the Commission adopts final numbering rules for IP-enabled services. That notwithstanding, the NPSC does not believe the Petitioners have made their case with respect to demonstrating a waiver is warranted. The NPSC does not believe the Petitioners have shown good cause as to why a waiver is appropriate, nor have they shown that a waiver would be in the public interest. Should the waivers be granted, however, the NPSC requests the Commission to remain diligent in its pursuit to properly conserve numbering resources, and ensure state commissions' number conservation efforts are not marginalized for the sake of efficiency.

II. Background

The State of Nebraska is served by area codes 308 and 402. The eastern portion of the state is served by the 402 area code and contains two Local Access and Transport Areas (LATAs); 644 Omaha and 958 Lincoln and contains

³ See *In the Matter of Administration of the North American Numbering Plan*, Order, CC Docket 99-200, FCC 05-20 (Feb. 1, 2005) ("Waiver Order").

283 of the states 461 rate centers. In June of 1999 the NPSC was informed by the North American Numbering Plan Administrator (NANPA) that the 402 area code was forecasted to exhaust in the fourth quarter of 2000. As a result, the NPSC opened Docket Nos. C-2057⁴ and C-2233⁵ to conduct an investigation into the potential exhaust of assignable telephone numbers within the 402 area code and to conserve assignable numbers. An industry workshop conducted under C-2057 considered four plans put forward by the industry for relief in the 402 area code including one overlay and three geographic split plans, but was unable to reach consensus. Subsequent efforts by the NPSC and carriers resulted in the voluntarily donation of numbering resources back to the numbering administrator. This action resulted in the push back of the forecasted exhaust date for the 402 area code. Also, in September of 1999, the NPSC filed a petition with the FCC for additional delegated authority to implement area code conservation methods for the 402 area code (NSD File No. L-99-83). In July of 2000, Nebraska was granted the authority to implement thousands-block number pooling in the Omaha MSA.⁶

In addition, on October 3, 2003, at the urging of the NPSC, a major Nebraska carrier completed consolidation of nine rate centers into five rate

⁴ See Docket No. C-2057, *The Commission, on its own motion, seeking to conduct an investigation into the potential exhaust of assignable telephone numbers within the 402 area code* (June 1999).

⁵ See Docket No. C-2233, *The Commission, on its own motion, seeking to conduct an investigation into the conservation of assignable numbers* (August 8, 2000).

⁶ See *In Re Numbering Resource Optimization Implementation of Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 99-200, CC Docket No. 96-98, DA 00-1616 Order, , 15 FCC Rcd. 23,371 (Jul 20, 2000).

centers resulting in a significant number of previously stranded numbering resources being made available to a wider geographic area.

On a daily basis the NPSC monitors request for numbering resources and pro-actively works with carriers to identify alternative means of satisfying numbering resource requests without expending additional central office codes. In addition to requesting carriers to voluntarily donate thousands-blocks to the pool the NPSC has also been successful in having a carrier with ownership of multiple codes in a rate center transfer ownership of a code to the new carrier for use as an LRN. The effectiveness of these efforts is demonstrated by the continued extensions to the forecasted exhaust date to the 402 area code from the fourth quarter of 2000 in 1999 to the current second quarter of 2006.

The 402 area code encompasses the only population areas in the state designated as Metropolitan Statistical Areas (MSA's); Omaha, Lincoln, and South Sioux City, however, the Omaha MSA is the only one in the top 100 and therefore required to have Local Number Portability and the attendant thousands-block number pooling (TBNP) capability. Of the 283 rate centers in the 402 area code, only 46 are within the Omaha MSA and subject to pooling requirements. Although three of the major carriers in the 402 area code have agreed to be voluntarily pooling capable by the end of 2005, carriers not pooling capable serve the remaining 92 rate centers and currently hold state waivers for LNP.

In the 402 area code 704 central office codes (7,040,000 assignable numbers) have been issued in support of a population base of 1,378,424. The utilization rate for the 402 area code is only 36%. With only 79 central office

codes remaining for the 402 area code it will not take many requests for numbering resources in non-pooling areas or requests for codes to be used as LRN's before the 402 area code is placed in jeopardy.

III. Argument

The introduction of new technology and alternative choices of voice communications for the consumer is important and provides long term benefits. However, without adequate guidance and oversight of the current numbering resources the issuance of additional waivers may result in Nebraska and other states having area codes placed in jeopardy.

In the Waiver Order it was noted that various commenters had asserted that SBCIS' waiver should be denied unless SBCIS met a variety of Commission and state rules.⁷ The Commission stated it did not find it necessary "to condition SBCIS' waiver on compliance with requirements other than numbering requirements." and "SBCIS' other obligations are not relevant to this waiver and will be addressed in other proceeding, including the IP-Enabled Services Proceeding."⁸ That notwithstanding, the NPSC believes that to condition these additional waiver requests on only numbering requirements minimizes the complexities of the inter-relationship that exists between numbering resources, the integration of new technologies into the legacy systems, and meeting consumer expectations for voice communications.

Indeed, there are important issues outside of numbering resources that must be addressed to ensure consumer expectations for voice communications

⁷ See Waiver Order, ¶ 9.

⁸ *Id.*

are met. Access to N11 numbers is one of those areas that should be of concern. The most important of these expectations is access to emergency services through 911. Regardless of contractual disclaimers and billing inserts cautioning users about possible variations in 911 access when using VoIP as compared to 911 access over traditional telecommunications services, in an emergency the average consumer will pick up the handset of a device that looks like a traditional telephone and dial 911 expecting to talk with emergency services in their geographical area. Failure to connect the consumer to an appropriate PSAP in a manner consistent with Basic 911 should be a minimum requirement of VoIP providers seeking access to numbering resources.

Further, the Commission requested “the North American Numbering Council (NANC) to review whether and how our numbering rules should be modified to allow IP-enabled service providers access to numbering resources in a manner consistent with our numbering optimization policies.”⁹ NANC, through the Future of Numbering Working Group is actively reviewing the Commission’s request and is scheduled to issue a report for the May 15, 2005 NANC meeting. To issue additional waivers prior to the issuance of a report by NANC is premature and may marginalize the efforts of NANC. Further, the NPSC hopes the Commission will act promptly to answer the questions raised in the IP-Enabled Services proceeding and establish industry-wide regulations rather than acting in a piecemeal fashion by granting individual waivers.

However, should the Commission grant limited waivers to the Petitioners, the NPSC requests the Commission ensure that proper safeguards are in place

⁹ *Id.*, ¶ 1.

so that the Commission's and the states efforts to conserve numbering resources is not undercut. First, with the influx of numbering requests, the NPSC urges the Commission to give states great leeway in efficiently conserving numbering resources. Second, the NPSC requests the Commission consider closing loopholes already forming on the Petitioners ability to directly receive numbers from NANP or the PA. For example, the NPSC is aware of situations where these "noncarrier" VoIP providers have notified states of their imminent request to NANP with little more than a statement that numbers will be requested. The notice to the state commission should include *at a minimum* the following information: 1) the VoIP provider's full name and contact information, 2) a description of where the numbers will be used, 3) the projected service commencement date, 4) whether a switch is being installed, and 5) how many numbers are being requested. The NPSC asserts that these requirements will ensure that state commissions and consumers are informed about numbering resources being used in their respective states, and will assist states in conservation planning. Third, the NPSC requests that all waiver recipients be required to follow the same conditions imposed on SBCIS with respect to facilities readiness, state numbering requirements and geographic limitations. Finally, the Commission should limit any waiver to pooling areas and require that the provider be porting and pooling capable before it obtains numbers.

The NPSC emphasizes that the conditions imposed by the Commission on obtaining numbering resources directly from NANPA and/or the PA should be

enforced. To not do so would severely undercut the efforts of the Commission and state commissions to conserve precious numbering resources.

IV. Conclusion

The Commission should consider carefully the consequences of granting the Petitioners a waiver. If the Commission decides to grant the Petitions, the Commission should ensure that all promises with respect to numbering utilization and optimization requirements are met, state commissions are given the appropriate tools to work with VoIP providers on their numbering needs, and numbering conservation efforts are not undercut by the influx of numbering requests.

Respectfully Submitted,

Nebraska Public Service Commission

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Dated: April 11, 2005